

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
March 27, 2006
6:00 P.M.**

Time & Place

A regular City Commission meeting was held on Monday, March 27, 2006 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present

Mayor Smith indicated for the record that Commissioners Cartwright, Oitzinger, Peura, and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were George Hoff, Jim Christnacht, and Ken Saunders representing the Helena Citizens Council and Jim Whaley representing Boy Scout Troop #228.

Pledge of Allegiance

Mayor Smith asked Boy Scout Troop #228 to lead those persons present in the pledge of allegiance.

Minutes

The minutes of the regular City Commission meeting of March 13, 2006 were approved as amended.

Appointments

APPOINTMENTS:

- A. Public Art Committee

Mayor Smith asked for Commission concurrence on the following appointment:

Public Art Committee – Appointment of Kathryn Fehlig.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Oitzinger moved approval of the appointment to the Public Art Committee. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Resolution declaring certain personal property to be abandoned and unclaimed (bicycles) **Resolution #19326**

City Manager Tim Burton recommended approval of the claims and the consent agenda.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Pouliot moved approval of items A and B on the consent agenda. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Oitzinger stated she's glad to be back in Helena after a recent trip out of state.

Commissioner Peura referred to Earth Day, Saturday, April 22, 2006 and noted he would be speaking on behalf of Project Save at various Earth Day events.

He also reported City Government 101 Sessions have been scheduled for the following dates and times in the Commission Chambers:

- o April 17, 2006 at 7:00pm - Structure of City Government
- o May 1, 2006 at 7:00pm - Scope of City Services
- o May 15, 2006 at 7:00pm – Hot topics in City Government

He invited citizens to attend and thanked the members of the task group for their work.

Commissioner Pouliot spoke of improvements scheduled for Downtown Helena this summer, including the signage program.

Mayor Smith thanked the Commission for their work at the Wednesday, March 22, 2006, Administrative Meeting.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

No report was given.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member George Hoff gave an overview of the March 22, 2006 HCC meeting. He added attendance at the meetings has been great and the council is very excited about the increased participation.

Rimrock Stages

CONSIDER APPROVAL OF A CONTRACT WITH RIMROCK STAGE LINES FOR DEPOT SERVICE.

Staff Report

Fleet Superintendent Ed Robinson reported currently Rimrock Stages contracts with a private party to provide the necessary bus services at 3001 East US Highway 12. This contract is soon to expire and Rimrock Stages is interested in pursuing a contract with the City of Helena. Rimrock Stages has approached the Helena Area Transit Service (HATS) to serve as its bus stop and depot, which would be located at the current transit facility at 630 N Last Chance Gulch. Two buses are scheduled daily at 4:30 and 8:20 pm. Passengers traveling on the early bus would have the option of riding HATS buses to their final destination in town. HATS would have to provide additional staffing daily for the 8:20 pm bus and for all weekend hours. Under the proposed contract, Rimrock Stages would pay an estimated \$60,000 annually for these services. Estimated costs for the additional personnel to handle evening and weekend buses annually are \$20,000. These additional revenues can be used as matching funds under the Section 5311 Transportation Grant. The contract does contain language that allows either party to discontinue the arrangement following the expiration of a period of six (6) months by at least thirty (30) days previous notice from either party to the other.

Mr. Robinson recommended approval of the contract and stated it would provide coordinated transit services for HATS and Rimrock Stages and add to the funding of HATS, reducing the immediate need for additional General Fund subsidy.

The proposed facilities will consist of seven additional units, with underground wiring, fiberglass or metal poles for 14 foot mounting heights, and glass enclosed cut-off luminaries with 100-watt high pressure sodium vapor lamps. The estimated cost of maintenance, electrical energy, and administration for the first year is \$2,586.56. This amount includes an additional assessment to be charged by the city to establish a cash reserve and recover any costs of the district incurred prior to receipt of the first assessments. Thereafter, the annual assessment will be approximately one-half of the first year's assessment.

Ms. Pierson recommended approval of the resolution of intention and public hearing date and stated with the amendment, seven additional lights would be installed in the Crystal Springs Subdivision, Phase III.

Public comment Mayor Smith called for public comment, none was received.

Motion **Commissioner Pouliot moved approval for the resolution of intention amending Resolution Nos. 12054 and 19216 to include Phase III in Special Improvement Lighting District No. 207 in the Crystal Springs Subdivision and set a public hearing date of April 24, 2006.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19327**

Public Hearings PUBLIC HEARINGS:

A. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3053 AMENDING THE HELENA CITY CODE BY REPEALING CHAPTER 18 OF TITLE 8 THAT AUTHORIZES THE DESIGNATION OF "PLAY STREETS" IN THE CITY OF HELENA.

Staff Report

City Attorney David Nielsen reported Chapter 18 of Title 8 of the Helena City Code authorizes the City Manager to declare any street or part of any street a play street and have it appropriately signed as such. That chapter also prohibits anyone from driving vehicles on a street designated as a play street unless the driver is a resident of the portion of the street declared a play street or has business thereon.

Under the old ordinance, the plain language of Chapter 18 allows the City Manager to restrict public use of city streets without any public process. The effect of a "play street" designation is a partial closure of a public right-of-way without providing affected property owners or the public a public hearing on the request. On its face, the "play street" provision is legally inconsistent with the legal requirements for street closures and fails to provide adequate due process to affected property owners. Also, the Helena Area Transportation Plan does not rely upon "play street" designations as a method of traffic control. In fact, a "play street" would be antagonistic to modern transportation planning. Designating a street as a "play street" will have the effect of misleading children and their parents into believing that it provides protection, thereby creating a false feeling of security. The "play street" would be impossible to enforce since police officers have no immediate and reliable way to determine that a vehicle being driven on a play street is either driven by a resident of the area or a person with business thereon. The "play street" designation is not a needed tool under the transportation plan, is not an effective way to provide a safe area for children, cannot be reasonably enforced, and is legally incompatible with

other legal requirements for closure of public rights-of-way. City Attorney Nielsen recommended final passage of the ordinance.

Public Testimony

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

There being no persons wishing to address the Commission, Mayor Smith closed the public hearing.

Motion

Commissioner Peura moved approval for final passage of Ordinance No. 3053 amending the Helena City Code by repealing Chapter 18 of Title 8 that authorizes designation of "play streets" in the City of Helena. Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Ordinance #3053**

B. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3054 AMENDING TITLE 3 OF THE HELENA CITY CODE TO REMOVE VARIOUS LICENSING REQUIREMENTS.

Staff Report

City Attorney Nielsen reported various chapters in Title 3 of the Helena City Code impose an annual license fee on electricians, plumbers, gas fitters, sign erectors, sign electricians and sign contractors. This license fee is separate and apart from the business license fee charged to everyone who operates a business within the City of Helena, and is similar to the occupational license fee charged by the State of Montana. In essence, certain businesses are being charged two (2) occupational license fees and one (1) business license fee.

City Attorney Nielsen recommended final passage proposed ordinance in order to correct the inequitable treatment of certain businesses or professions. Currently, under the Helena City Code, any business that carries on for purposes of economic benefit or profit or engages in for livelihood or gain within the City shall apply for and obtain a license from the City. For example, both a plumbing business (which employs plumbers) and a sign erector business (which employs sign erectors) are required to pay license fees. In short, the City of Helena collects revenue in the form of a general business license fee on an establishment in the electrician business, plumbing business, gas fitter business, sign erector business, sign electrician business, and sign contractor business. In addition to the general business license fee, an individual plumber employed by a plumbing business is also required to pay another annual license fee for "engaging or carrying on the business of plumbing" as stated in §3-7-3 of the Helena City Code.

Commission comment

Commissioner Oitzinger asked for the history of the fee. City Attorney Nielsen stated in reviewing when the State of Montana entered the regulatory business of licensing plumbers and electricians, it was found that they enacted their certification process after this ordinance was passed. The city does not currently require bonding and insurance for these professions so the service they are being charged for is no longer provided. Commissioner Oitzinger asked for the quantifying revenue from the fees. City Attorney Nielsen stated \$6000-\$7000 per year.

Public Testimony

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

Keith Allen, IBEW Local #233; spoke in opposition to the ordinance. The IBEW believes the fees should be reduced and the requirement of being licensed with the city should be left in.

There being no further persons wishing to address the Commission, Mayor Smith closed the public hearing.

Discussion

Commissioner Peura asked Mr. Allen what value is added to the citizens of Helena by keeping the ordinance in place? Mr. Allen stated safety in installations by requiring two forms of licensure.

Mayor Smith stated the licensing of electricians could be removed from the ordinance for further review. City Manager Burton stated he feels this is a duplicate charge and it is not right that these occupations are charged twice as the city is not providing any service. Mayor Smith concurred with City Manager Burton's comments. Mayor Smith asked if state law would allow the city to begin an aggressive program to ensure contractors are properly licensed? City Manager Burton explained since Helena is a self-governing, home-rule city, such a program could be allowed and could be funded by the subject fees or building inspection fees. Commissioner Cartwright asked if city building inspectors can ask to see state licenses? City Attorney Nielsen stated staff does check for licensure, as it is required by law. Commissioner Cartwright indicated he would like to discuss the license inspection process at a future Administrative Meeting. City Manager Burton reiterated staff does ask for licenses when performing inspections and noted that contractors are required to post their licenses at job sites.

Commissioner Cartwright asked how often or regularly building inspectors ask to see plumbing and electrical licenses when on job sites? Chief Building Official Brandt Salo reported it is not usually necessary as the inspectors are very familiar with the craftspeople in town. If an unfamiliar firm is working, the inspector asks for the appropriate licenses. Mayor Smith asked if the city's role in inspection of appropriate licensure is secondary to the State of Montana? Mr. Salo stated yes.

Commissioner Peura asked if showing a license would create any financial burden? Mr. Salo explained in many cases the craftperson is not on the job site when the inspection is performed; to track down the craftperson would take a large amount of additional staff time. Commissioner Peura asked how diligently does the state check for licenses at job sites? Mr. Allen stated since the City of Helena is a certified city, they take responsibility for all job site inspections, including checking for licenses. Commissioner Peura stated the city's role is to ensure safe, competent, and qualified work and he does not understand why checking licenses would be a burden. Mr. Salo clarified that when building permits are issued, the firm or craftperson listed on the job is crosschecked with a list of licensed workers provided by the State of Montana.

Commissioner Peura asked how the proposed ordinance amendment came about? City Manager Burton gave the history of the proposed change. Commissioner Peura asked City Manager Burton if he and city staff are confident with requiring just state licensing? City Manager Burton stated he believes the city does a great job, staff is competent in ensuring compliance with codes.

Commissioner Cartwright suggested discussion on how the city conducts its inspections be placed on a future Administrative Meeting

agenda. Commissioner Peura indicated he would support the ordinance amendment and concurred with Commissioner Cartwright that further discussion should be held. Mayor Smith stated he too would support the motion and indicated he'd like future discussion to include certified cities.

Motion

Commissioner Cartwright moved approval for final passage of Ordinance No. 3054 amending Title 3 of the Helena City Code to remove various licensing requirements. Commissioner Pouliot seconded the motion. Motion carried 4-1, with Commissioner Oitzinger voting no. **Ordinance #3054**

Public Communications

PUBLIC COMMUNICATIONS

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is April 5, 2006 and the next Commission Meeting is April 10, 2006. The City/County Joint Work Session will be held on April 6, 2006.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:04p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission